

## **PLANNING BOARD**

**DRAFT ONLY** - Minutes of June 22, 2011

PRESENT: Arnie Rosenblatt, Chairman, Gordon Leedy, Marilyn Peterman, Rich Hart, Sally Wilkins, Cliff Harris, Mike Dell Orfano, and Charlie Tiedemann – Planning Director

Chairman Rosenblatt called the meeting to order at 7:30 pm.

Charlie then presented three locations for Regional Impact votes:

Lot 11-16 off Pulpit Road in Bedford for subdivision

*Gordon moved Regional Impact to Bedford, Sally seconded. All in favor.*

Lot 8-57 NH Rte. 101 for NRSP.

*Gordon moved Regional Impact to Bedford, Sally seconded. All in favor.*

Lot 12-8 North Hollis Road for NRSP.

*Gordon moved Regional Impact to Hollis, Sally seconded. All in favor.*

### **Minutes of 5.4.11:**

Line 86: Strike last two sentences in paragraph.

Line 218: After 'the', Add: 'Sign Master Plan for the'.

Line 274: Strike 'looked' and add: 'recalled'.

*Cliff moved to approve the minutes as corrected, Sally seconded. All in favor.*

### **Minutes of 5.18.11:**

Line 36: Add: No stumps will be visible from the road.

*Cliff moved to approve the minutes as corrected, Mike seconded. All in favor.*

### **Minutes of 6.1.11:**

Line 78: Add: Arnie noted Cliff stepped down for this item.

Line 111: Add: 'snowy' before Sundays.

Line 144: Change: 'I' to 'we'.

Line 166: Change: 'a gold plate' to 'recognition'.

Line 283: After 'Bedford' add: 'EMS's for comments'.

Line 284: After 'address': add: 'length of the'.

Line 285: Change 'issue' to 'ride'.

Line 287: After 'will' add: 'be Amherst citizens but in effect will'.

*Gordon moved to approve the minutes as corrected, Sally seconded. All in favor.*

47 Discussion of Affordable Housing Ordinance and Workforce Housing

48

49 Arnie began by noting that Mike had provided a list of questions and comments for the Board to  
50 review and discuss and has also invited Ben Frost, from the NH Housing Authority, to be present to  
51 help the Board with any questions that they may have.

52

53 Mike opened the discussion with his feeling that this discussion will continue for more than one  
54 meeting. He explained that he was interested in these issues and that Town Counsel may be asked for  
55 his interpretation and advice for wording and language. Can we agree what are the issues?

56 Gordon noted the first one appears clear that the RSA 674:58-61 (674) does not preempt the Town's  
57 Affordable Housing Ordinance. He said he does not believe a developer can come into Town and just  
58 say 674 allows me to do what I want. The Board continued with a general discussion on that subject.  
59 Marilyn noted that she thought Mike's assumptions were based on your concern for an existing  
60 lawsuit.

61 Arnie asked Mike to articulate or identify what you see as a problem. Mike agreed.

62 Mike does not want to personalize these issues. He continued to explain his concerns and wish to  
63 identify what others see as problematic with the Ordinance and then go to Town Counsel for advice.

64 Mike continued to question 674 with Cliff who wanted to know what it means for us. Mike also  
65 mentioned that we can place additional restrictions in our Ordinance and noted that the Town is giving  
66 away too much to developers.

67 He asked where in the Ordinance does it say we can limit the number of lots or units?

68 Marilyn explained the Ordinance to Mike and why it was written the way it is. The Board then  
69 continued a general discussion of the Ordinance. Sally explained that it was written back in the late  
70 80's.

71 Gordon noted that we do have legal issues here and I am interested in Bill's take on them.

72 Marilyn talked about the fact that land values will remain high and that all the easily developed land  
73 was gone.

74 Mike noted that he would like to move on and read from his questions and comments relative to  
75 density. He also spoke about density and the housing market and smaller homes and what is labeled  
76 affordable. He thought the Ordinance should be re-written for inclusion into existing subdivisions and  
77 Gordon agreed.

78 Mike again read from his notes and the Board discussed what they can deny if a developer came in  
79 with a request we disagreed with. Arnie said his answer was yes but the denial must contain legitimate  
80 reasons. Mike wanted to act fairly with the Amherst Master plan as a guide. Gordon commented on  
81 reasons why some pieces of land are not suitable, and he quoted the statute. Sally and Marilyn  
82 confirmed Bill's opinion, but Mike disagreed. Charlie confirmed that was exactly what happened and  
83 explained it to the Board. Sally then read from the Ordinance.

84 Mike asked what the Board's authority is for approval of an application. A discussion continued  
85 regarding the Ordinance. Gordon recapped the discussion. Gordon thought Sally's idea was excellent  
86 and she then explained it to Mike. The Board continued to discuss what they can and cannot do when  
87 making a discussion with an applicant.

88 Mike began a discussion relative to the 1% yearly cap and asked if it was necessary to which Sally  
89 replied no. A discussion then began on the 1% and density. Mike asked how we enforce an applicant  
90 using 674. Sally said thru our Affordable Housing Ordinance. Cliff then discussed the Master Plan and  
91 our Zoning and Sally mentioned she would like to discuss 'mixed use'.

92 Mike and Sally and Marilyn discussed the tax issue and Mike was concerned about the market and  
93 taxable properties. They continued to discuss the about losing tax revenue on Affordable and  
94 Workforce Housing and getting the highest use of the land for tax purposes. Sally explained why the  
95 Ordinance was created noted this was a big issue for Mike. Cliff told Mike that the Board does not  
96 have the ability to say no. Mike doesn't like the way the existing Ordinance is and gave his opinion to  
97 Marilyn. The discussion continued for some time.  
98 Arnie asked if we can work thru the issues. We should determine if we see any issues at all and what  
99 ones do we want to look at. We should get thru the issues to determine which does the Board think are  
100 issues to be explored.  
101 Sally asked Ben Frost relative to market conditions now, what is our fair share and if we are meeting it  
102 now, how does 674 fit into that.  
103 Ben responded that the fair share requirement does not go away, but there is an opportunity for a  
104 developer to apply anyway.  
105 Mike noted again his concern is to straighten out the regulations and act in the best interest of the  
106 Master Plan.  
107 Mike said the Ordinance is that if someone meets the density, then they are suitable. I don't believe  
108 this Ordinance can deny suitability. A discussion over suitability then continued. He asked about the  
109 1% issue and Charlie noted the reference was para. 8.5.4.1. Ben made a suggestion about phasing and  
110 encouraged the Board to discuss this with Bill.  
111 Mike re-read his item 4. The Board discussed Mikes concerns and losing tax opportunities. Mike  
112 explained why this issue should be looked at. Arnie defended the Ordinance to Mike.  
113 Ben explained that an applicant can come in and say he wants affordable housing and then he told the  
114 Board what can happen.  
115 Mike questioned if the Ordinance has the right to deny an applicant. Arnie commented that Bill did  
116 everything he could to protect the Affordable Housing Ordinance.  
117 Sally said she hates the 1300 sf limitation and thinks it's anti family and wants to look at it again.  
118 Cliff's concern is for health and safety, you don't include homes in a mixed use for that reason.  
119 Gordon on the 1300 sf – the broad issues we talked about are around maintenance of affordability and  
120 retention of the Ordinance.  
121 Mike brought up 'economic viability' and Ben commented it is not in the statute. Arnie explained it is  
122 not an issue, and he thinks this is a dangerous road to go down.  
123 Mike read his comment 'e' and a discussion occurred. Arnie felt they should ask Bill his opinion.  
124 Ben continued to encourage the Board to discuss this with Bill.  
125 Mike's last point was Regional Impact and he feels it should be automatic on Affordable applications.  
126 The Board disagreed with Mike's opinion.  
127  
128 Arnie summarized the discussion: 1. We need advice on pre-emption from Bill – The Ordinance vs  
129 674 - what happens if a developer comes in and says I am invoking 674?  
130 2. Phasing vs 1% and growth management – ask Bill. 3. Integration – ask Bill. 4. 1300 sf for further  
131 discussion.  
132  
133 *Cliff moved to adjourn at 9:50 pm, seconded by Sally. All in favor.*  
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